

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF TENNESSEE  
NASHVILLE DIVISION**

<b>Jane Doe I, <i>et al.</i>,</b>	)	
	)	
<b>Plaintiffs,</b>	)	<b>No. 3:16-0199</b>
	)	<b>JURY DEMAND</b>
<b>v.</b>	)	
	)	<b>Judge Trauger</b>
<b>The University of Tennessee, <i>et al.</i>,</b>	)	
	)	
<b>Defendants.</b>	)	

**DEFENDANTS' MOTION TO DISMISS FOR IMPROPER VENUE, OR,  
IN THE ALTERNATIVE, TO TRANSFER VENUE<sup>1</sup>**

Defendants, by and through counsel, respectfully request the Court to dismiss pursuant to Rule 12(b)(3) of the Federal Rules of Civil Procedure and 28 U.S.C. § 1406(a) for improper venue under 28 U.S.C. § 1391, or, in the alternative, to transfer venue to the Eastern District of Tennessee pursuant to 28 U.S.C. § 1404. As grounds for this Motion, Defendants state that Plaintiffs have the burden of proving venue is proper and have not done so. As to Defendant the University of Tennessee (“the University”), the Middle District of Tennessee is an improper venue under 28 U.S.C. § 1391(d) because the University would not be subject to general personal jurisdiction in the Middle District if this district were its own state. As to the Director of Student Conduct & Community Standards in his official capacity, (“the SCC Director), venue is improper because he is not domiciled in the Middle District, under 28 U.S.C. § 1391. In the alternative, the case should be transferred to the Eastern District of Tennessee under 28 U.S.C. §

---

<sup>1</sup> While it is unclear whether a response to a motion for a temporary restraining order is a “responsive pleading” contemplated by Rule 12(h)(1)(B)(ii) of the Federal Rules of Civil Procedure, Defendants file the instant motion out of an abundance of caution to ensure that their venue objections are preserved. Given the somewhat harried posture of the case thus far, Defendants have had to turn this Motion and its supporting memorandum of law around rather quickly. As a result, if necessary, they may amend this motion to add affidavits (as Plaintiffs amended their Motion for a Temporary Restraining Order) or file them with a reply and Defendants respectfully request the Court’s forbearance.

1404 for the convenience of parties and witnesses, in the interest of justice. A Memorandum of Law in Support of this Motion is filed herewith.

WHEREFORE, Defendants respectfully request that the Court dismiss this case pursuant to Rule 12(b)(3) of the Federal Rules of Civil Procedure and 28 U.S.C. § 1406(a) for improper venue under 28 U.S.C. § 1391, or, in the alternative, to transfer venue to the Eastern District of Tennessee pursuant to 28 U.S.C. § 1404.

Respectfully submitted,

**NEAL & HARWELL, PLC**

By: s/Kendra E. Samson  
William T. Ramsey, #009245  
Kendra E. Samson, # 018976  
Robert A. Peal, #025629

150 Fourth Avenue North, Suite 2000  
Nashville, TN 37219  
(615) 244-1713 – Telephone  
(615) 726-0573 – Fax  
[bramsey@nealharwell.com](mailto:bramsey@nealharwell.com)  
[ksamson@nealharwell.com](mailto:ksamson@nealharwell.com)  
[rpeal@nealharwell.com](mailto:rpeal@nealharwell.com)

*Counsel for Defendants*

**CERTIFICATE OF SERVICE**

I hereby certify that on this the 16<sup>th</sup> day of February, 2016, this document was electronically filed with the Court and a copy was served via the method(s) indicated below, on the following counsel of record:

- ☐ Hand
- ☐ Mail
- ☐ Fax
- ☐ Fed. Ex.
- ☐ E-Mail
- ☒ EFS

David Randolph Smith  
Dominick R. Smith  
W. Lyon Chadwick  
Christopher W. Smith  
**David Randolph Smith & Associates**  
1913 21<sup>st</sup> Avenue South  
Nashville, TN 37212

s/Kendra E. Samson